IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE M.SASIDHARAN NAMBIAR

THURSDAY, THE 14TH DECEMBER 2006 / 23RD AGRAHAYANA 1928

WP(C).No. 33070 of 2006(J)

AS.127/2006 of SUB COURT, NEDUMANGAD
EP.107/2006 of PRL.MUNSIFF COURT,NEDUMANGAD
O.S.527/2000 OF PRL.MUNSIFF COURT, NEDUMANGAD

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PETITIONER: JUDGEMENT DEBTOR

REMESAN, GEETHA VILASAM,
KURUMTHALI, PALODE VILLAGE.

BY ADV. SRI.A.RAJASIMHAN

RESPONDENTS: DECREE HOLDER

B.B.BABU, BABU MANDIRAM,
CHATHAMKONAM, KALLARA VILLAGE,
NEDUMANGAD.

BY //

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 14/12/2006, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

PIUS C.KURIAKOSE, J.

W.P.(C)NO.33077 of 2006

Dated this 14th day of February , 2007

JUDGMENT

Ext.P5 order of the Ombudsman is under challenge by the Panchayat. The Ombudsman passed Ext.P5 order on the basis of Ext.P3 complaint submitted by the 2nd respondent. The Complaint in Ext.P3 is that the Panchayat, after having obtained permission from the Government for purchasing the property under Ext.P1 for the specific purpose of establishing an Agricultural Marketing Centre is going to transfer the property (35.21 cent of land) covered by Ext.P1 document to the KSRTC, so that the property could be utilized by the KSRTC for parking their buses since there was dearth of space in their bus stand. The Hon'ble Ombudsmen for Local Self Government Institution has recorded the statement of the Secretary of the Panchayat that the very purchase of the property was on the basis of the Government order granting permission to purchase the land for the establishment of an Agricultural Marketing Centre. The Ombudsman also noticed the statement of the Secretary that the Agricultural Marketing Centre will be constructed only on this

property. It appears that Ext.P4 affidavit was also submitted by the Secretary of the Panchayat before the Ombudsmen. The case of the petitioners is that after filing of Ext.P4 affidavit, time was sought for by the Secretary for filing a detailed affidavit. Even though there is nothing on Ext.P4 to indicate that the Secretary sought for time to file a detailed affidavit, the grievance of the petitioners that Ext.P5 order probably stands in the way of the Panchayat having a temporary arrangement with the KSRTC in respect of the land in question, ought to be considered, Ext.P5 order was passed at a time when the Panchayat was seriously considering the request of the KSRTC for permission to allow parking of their buses in the land at least till such time the Agricultural Marketing Centre is established by the Panchayat and because of Ext.P5 the Panchayat is unable to consider precisely the request at all is the grievance.

2. Heard Sri.J.S. Ajithkumar, the learned counsel for the petitioners, Sri.G.Beno. the learned counsel for the 2nd respondent and Sri.Vinod Vallikappan on behalf of the learned Standing Counsel for the KSRTC Sri.K.Prabhakaran. Sri.Ajith Kumar making submissions on the basis of the grounds raised in the writ petition, placed before me a copy of letter ATO/

307/06/VIRD dated 13.11.2006 issued by the KSRTC to the Panchayat and also copy of the resolution No. III dated 27.12.2006 adopted by the Panchayat. Under resolution No. III taking into account successive representations of the local people that on account of the parking of the KSRTC buses on the roadside the area has become accident prone it is decided to permit the KSRTC to park their buses temporarily on the land in question.

3. Sri.G. Beno, the learned counsel for the 2nd respondent would submit that the very object of purchasing the property was for the establishment of Agricultural Marketing Centre. The Panchayat having given an assurance before the Ombudsman through an affidavit that the property in question will not be transferred to the KSRTC and will be utilized only for the purpose of establishment of Agricultural Marketing Centre is not justified in now contending that they are entitled to transfer the land to the KSRTC under the guise of a temporary arrangement. The temporary arrangement has to be limited by a definite period of time lest it should become a perpetual arrangement.

4. Sri.Vinod Vallikkappan would submit that KSRTC has been given only a licence by the Panchayat. He further submits

that the KSRTC has not acquired any interest in the property and that as and when the Panchayat terminates the licence which they may do when the time comes for establishment of the Agricultural Marketing Centre the KSRTC will not have any objection for vacating the land and facilitating the construction of the Agricultural Marketing Centre.

Having Considered the rival submissions made at the bar, I am of the view that the impugned order should not stand in the way of the Panchayat having any temporary arrangement with the KSRTC for parking of vehicles of the KSRTC in the land in question. But temporary arrangements as distinguished from permanent arrangements cannot be perpetual. Under these circumstances, I dispose of the writ petition clarifying that Ext. P5 order of the Ombudsman will not stand in the way of the petitioners Panchayat and the KSRTC having the present arrangement of parking of vehicles by the KSRTC on the land covered by Ext.P1 at least till 31.3.2009.

PIUS C.KURIAKOSE
Judge

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